

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**DAWN BALL,
Plaintiff**

v.

**C.O. ODEN, et al.,
Defendants**

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No. 1:09-cv-00847

(Judge Kane)

(Chief Magistrate Judge Carlson)

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On April 24, 2013, the Court issued an order to Plaintiff Dawn Ball directing her to file an amended complaint in the above-captioned action. (Doc. No. 140.) After Plaintiff failed to comply, the Court issued a second order to Plaintiff on August 6, 2013, again directing her to file an amended complaint. (Doc. No. 144.) In response, Plaintiff filed a motion for miscellaneous relief, but did not comply with the Court's order to file an amended complaint. (Doc. No. 145.) On October 8, 2013, Magistrate Judge Carlson issued a Report and Recommendation recommending that the Court dismiss Plaintiff's complaint with prejudice (Doc. No. 1) for failure to prosecute pursuant to Federal Rules of Civil Procedure Rule 41(b). (Doc. No. 147 at 5.) Plaintiff filed objections to the Report and Recommendation. (Doc. No. 151.) The Court will address Magistrate Judge Carlson's recommendations and Plaintiff's objections in turn.¹

Magistrate Judge Carlson's Report and Recommendation analyzes Rule 41(b) of the

¹ The Magistrate Act, 28 U.S.C. § 636, and Rule 72(b) of the Federal Rules of Civil Procedure, provide that any party may file written objections to a magistrate's proposed findings and recommendations. In deciding whether to accept, reject, or modify the Report and Recommendation, the Court is to make a de novo determination of those portions of the Report and Recommendation to which objection is made. 28 U.S.C. § 636(b)(1).

Federal Rules of Civil Procedure, as well as the Poulis factors, to determine whether dismissal of Plaintiff's claim for failure to prosecute is warranted. (Doc. No. 147 at 5-6.) After carefully analyzing the six factors outlined in Poulis, Judge Carlson recommended that the Court find that the factors in favor of dismissal for failure to prosecute outweighed those in favor of allowing Plaintiff to proceed. (Id. at 12.) Accordingly, Magistrate Judge Carlson recommended that Plaintiff's complaint be dismissed with prejudice for failure to prosecute. (Id.)

Plaintiff's objections fail to address the legal issues presented in Magistrate Judge Carlson's Report and Recommendation. Rather, the objections consist almost exclusively of complaints regarding the conduct of prison staff, the Court, and Magistrate Judge Carlson, and offer only conclusory statements in response to the substance of Judge Carlson's Report and Recommendation. Upon a review of the record and the applicable law, the Court detects no error in Magistrate Judge Carlson's findings, and accordingly the Court will adopt Judge Carlson's recommendation that Plaintiff's complaint be dismissed pursuant to Federal Rules of Civil Procedure Rule 41(b) for failure to prosecute. (See Doc. No. 147.)

AND NOW, on this 18th day of December 2013, **IT IS HEREBY ORDERED THAT:**

1. Magistrate Judge Carlson's Report and Recommendation of October 8, 2013, (Doc. No. 147) is **ADOPTED**;
2. Plaintiff's objections (Doc. No. 151) are **OVERRULED**;
3. Plaintiff's complaint (Doc. No. 1) is **DISMISSED** for failure to prosecute; and
4. The Clerk of Court is instructed to close the case.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania